

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mercedes Bayon	Team: Team # 4	CCRB Case #: 201210948	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/14/2012 3:00 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 2/14/2014	EO SOL 2/14/2014	
Date/Time CV Reported Thu, 08/30/2012 9:57 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/30/2012 9:57 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. LT Joseph Hayward	00000	923936	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Schumacher	04618	949640	PBBN
2. POM Jose Alvarez	10396	941343	075 PCT
3. SSA Robert Patelli	04383	893500	ESS 07

Officer(s)	Allegation	Investigator Recommendation
A.LT Joseph Hayward	Abuse: Lt. Joseph Hayward authorized the entry and search of § 87(2)(b) in Brooklyn.	
B. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On August 14, 2012, § 87(2)(b) filed this complaint on behalf of herself and her two sons, § 87(2)(b) and § 87(2)(b) with the CCRB via the Call Processing System (encl. 6-7).

On August 14, 2012, Lt. Joseph Hayward authorized the entry into § 87(2)(b) in Brooklyn. § 87(2)(b) was AIDED by EMS while § 87(2)(b) and § 87(2)(b) were arrested by PO William Schumacher. The following allegations resulted:

- **Allegation A: Abuse of Authority:** Lt. Joseph Hayward authorized the entry and search of § 87(2)(b) in Brooklyn.
§ 87(2)(g)
- **Allegation B: Force:** Officers used physical force against § 87(2)(b)
§ 87(2)(g)

Since the date of this incident, Lt. Joseph Hayward has been promoted to the rank of captain. However, since he was a lieutenant at the time of this incident, he will be addressed as such in the following report.

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. She is a black female who stands 5'2" tall and weighs 165 pounds with black hair and brown eyes. § 87(2)(b)*

Statement to Medical Personnel:

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b). She denied having chest pain or vision changes. She stated that exacerbating factors that occurred are stress. She stated that police hit her door and she became anxious. She stated that following this her blood pressure was elevated.

CCRB Statement: (encl. 8-12)

§ 87(2)(b) was interviewed at the CCRB on October 23, 2012. On August 14, 2012, § 87(2)(b) was at her home located at, § 87(2)(b) in Brooklyn, with her two sons, § 87(2)(b) and § 87(2)(b) and her two grandchildren, § 87(2)(b) and § 87(2)(b) years old, unnamed in the interview. She provided a brief description of the layout of her apartment. The dining room is immediately inside the front door, followed by the kitchen and living room, with her two sons' bedrooms across from two bathrooms further down a hallway. Finally, in the back of the apartment, § 87(2)(b)'s bedroom is located immediately adjacent to her grandchildren's bedroom.

Between approximately 3:00am and 3:30am, § 87(2)(b) was aroused from sleep by noises at the door of her apartment and shortly thereafter was awoken by her son § 87(2)(b).

§ 87(2)(b) told her that he had heard knocking on the door by persons who identified themselves as police officers, who demanded to be allowed into the apartment. According to § 87(2)(b) § 87(2)(b) informed her that he looked through the peephole in the apartment's front door and saw an unknown female standing near several officers in the hallway. The officers asked her to knock on the door for them and continued to do so on their own when she refused. At this point, § 87(2)(b) got up from her bed and went to the front door. § 87(2)(b) approached the front door and asked the officers what they wanted (she asked from the inside of her apartment without opening the door). An unidentified male voice responded that they wanted to speak with her. She replied, "you're speaking to me now, why do I have to open the door?" The officers continued to knock without providing any answer to § 87(2)(b)'s inquiry. § 87(2)(b) never received any explanation for the officers' presence or insistence on entering the apartment. She asked through the door if the officers had a warrant to enter the premises and received no response.

§ 87(2)(b) reported looking through the peephole and observing one officer in a white shirt, identified by the CCRB as Lt. Joseph Hayward, and approximately five or six others, all in dark colored uniforms. At other times, she looked through the peep hole and observed an unknown number of other officers wearing tactical equipment including helmets, shields, and bullet-resistant vests. She stated she did not want to open her door because she could not determine with certainty the identities of those on the other side. Following this, § 87(2)(b) reported that her daughter, who lives down the hall in another apartment, entered the hallway and asked the officers why they were knocking on her mother's door. The officers again answered that they wanted to speak to her. After nearly two hours of knocking on the door, the officers knocked down the door and gained entry into her apartment. § 87(2)(b) never opened the door.

When the officers entered the apartment, § 87(2)(b) was sitting on her bed in her bedroom with her son § 87(2)(b) and two grandchildren, while her other son, § 87(2)(b) was in the hallway. § 87(2)(b) alleged that she heard the officers using profanity; however, she was unable to discern the source or content of the remarks. As they reached § 87(2)(b)'s bedroom door, the officers ordered § 87(2)(b) and § 87(2)(b) to the ground. Both complied and lay on the floor in the bedroom and hallway respectively. § 87(2)(b) reported that officers began to kick § 87(2)(b) who remained motionless and supine on the ground. When he asked why the officers were "doing this to him," the officers claimed that there were guns and drugs in the apartment. § 87(2)(b) observed approximately four officers walk by her bedroom door, but was unable to determine how many or which officers participated in the use of force. She was unable to describe any of these officers because they were covered in riot gear such as masks and were wearing bulky uniforms. She observed at least one officer place his foot on § 87(2)(b)'s chest and strike him once with a long stick-like object. She did not specify where he was struck. The officers ordered § 87(2)(b) to leave the bedroom. She reported that as she emerged and observed § 87(2)(b) on the floor. § 87(2)(b) attempted to turn back to the bedroom but was pushed to walk by an officer, who she could not describe. It was not forceful, she did not fall or sustain any injuries. As § 87(2)(b) was making her way out of the apartment § 87(2)(b) observed at least four more officers coming in past her and reported a total of approximately ten officers in the apartment. She was unable to recall the physical characteristics or a description of any particular officer.

As she left the apartment, § 87(2)(b) was permitted to give her grandchildren to her daughter, who took them to her own apartment § 87(2)(b) down the hall. Though § 87(2)(b) initially reported making first contact with her daughter downstairs in a waiting ambulance, she later stated that she first handed the grandchildren to her daughter in the building hallway. § 87(2)(b)'s daughter did eventually meet her downstairs in the ambulance. § 87(2)(b) then

proceeded down the elevator with two officers dressed in NYPD uniform. She was unable to describe the officers except for stating that “they were all white.” After being treated by EMS for between 20 and 25 minutes, § 87(2)(b) was transported to § 87(2)(b) with high blood pressure. During this time, neither of her sons were brought outside. § 87(2)(b) stated that at some point, officers in her apartment made mention of a heart attack victim, but § 87(2)(b) denied that anybody in the house required medical attention or called an ambulance at any point during or before the incident. She did state that she was experiencing chest pains as a result of the ordeal and she may have said as much during the incident through the doors when the officers were knocking on the door. She added that no weapons were found in the apartment or on the persons of either of her sons.

When § 87(2)(b) arrived back home from the hospital she observed two unidentified police officers safeguarding her apartment door who told her she was not allowed to enter. She stated she needed to lie down but was again refused entry. Both officers were not present when the officers entered her apartment. After being refused entry, § 87(2)(b) sat in a chair outside her apartment for several hours before she was allowed back inside. § 87(2)(b) stated that the officers were there because the front door to the apartment door had been broken in during the original police activity and would not close. § 87(2)(b) stated that the police had placed black tape over a surveillance camera outside her door. She additionally reported that police placed black tape over a neighbor’s peephole, which had been removed by the time she arrived home.

Though § 87(2)(b) did not report observing any damage to her apartment upon leaving for the hospital, she stated that officers from the initial entry had ransacked the apartment, taking out all the drawers, emptying cupboards and overturning the mattress on her bed. In addition, she stated that both of her son’s cellphones were found stepped on and broken, one in her bedroom and one in the hallway. In her grandchildren’s room, clothing was thrown around the floor, the air conditioner was partially dislodged from the window and the tower of a computer was open. § 87(2)(b) stated that clothing and shoes were thrown around the house. § 87(2)(b) did not witness any of the property damage occur and did not see the officers search through anything or throw anything around in her home.

Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male who stands 5’7” tall and weighs 130 pounds with black hair and dark brown eyes. He did not provide his employment information to the CCRB.*

Statement to Medical Personnel:

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) where he informed medical personnel that he was experiencing body aches and neck pain. He stated that the pain increases with movement. In addition, he informed medical personnel that he was arrested and struggled with the police.

CCRB Statement: (encl. 13-16)

On August 14, 2012, at approximately 3:00am, § 87(2)(b) was home with his mother § 87(2)(b) his § 87(2)(b) old son and his brother, § 87(2)(b) § 87(2)(b) resides with § 87(2)(b) inside of § 87(2)(b) in Brooklyn. § 87(2)(b) was asleep in his bedroom with his § 87(2)(b) old son when he heard the doorbell ring. § 87(2)(b) awoke and asked who it was. He heard a female voice state a name he could not recall. He then buzzed the door and let the female into the building. § 87(2)(b) went to his brother, § 87(2)(b) who was also asleep, and woke him up to ask him if he was waiting for a female visitor. When § 87(2)(b) stated that he was not, § 87(2)(b) went to the door and looked out of

the peep hole. § 87(2)(b) observed uniformed officers and a female, whose name he did not recall.

§ 87(2)(b) looked away and told § 87(2)(b) that officers were at the door. At this time he heard knocking at the door and when he looked through the peep hole, he observed an officer, who he could not describe, knocking on the door. § 87(2)(b) asked what they wanted and the officers told him to open the door. § 87(2)(b) asked again what they wanted and they continued to repeat, "Open the door." § 87(2)(b) did not do so and they continued to knock and bang loudly on the door. § 87(2)(b) went to § 87(2)(b)'s bedroom and told her what was occurring. § 87(2)(b) got out of bed and approached the door. § 87(2)(b) asked what they wanted and again the officers stated that she was to open the door. The officers asked if she had high blood pressure or if she was having a heart attack, which § 87(2)(b) verbally denied. § 87(2)(b) asked the officers if they had a search warrant, but they did not reply.

§ 87(2)(b) did not answer the door. § 87(2)(b) went to his bedroom and got his son out of bed and went to § 87(2)(b)'s bedroom. § 87(2)(b) and § 87(2)(b) were also in § 87(2)(b)'s bedroom. They sat in there for approximately two hours and did not respond to any of the officers who continued to ask them to open the door and did not open the door at any time.

After about two hours, the officers busted the front door open. At this time, § 87(2)(b) was seated on her bed holding § 87(2)(b)'s son and § 87(2)(b) was seated on the bed also. § 87(2)(b) was standing in the hallway outside of § 87(2)(b)'s bedroom. § 87(2)(b) heard the door bust open at which time he turned and observed numerous officers rush into the apartment. As the officers approached they yelled "Get on the ground," but he froze up and was unable to move or do anything and the officers then threw him to the ground face down. He stated that this happened quickly and could not explain how specifically he was thrown to the ground or how he was grabbed. § 87(2)(b) also could not describe the officer's physical appearance because they were wearing swat uniforms, which covered their faces. § 87(2)(b) was unable to see what was occurring as he was on the ground. He felt the officers kicking him about his body all over and felt an officer place their foot on his back and hold him down by applying pressure. § 87(2)(b) was unable to describe how many times he was kicked or describe/identify who used the above force on him. He was not moving or saying anything while he was on the ground. He was on the ground for approximately 1-2 minutes. He looked around and saw officers going into different rooms in the apartment and noticed that § 87(2)(b) was taken out of the apartment. § 87(2)(b) was placed in handcuffs by any unknown officer and then lifted from the ground. He was seated in the living room where § 87(2)(b) was also seated. One of the officers in the swat uniform asked him where the guns and drugs were located, but he replied that there were no such items in the location. After about 10 minutes, he and § 87(2)(b) were taken out of the location and placed into an RMP.

§ 87(2)(b) was treated for pain to his back at § 87(2)(b) after he was released. He never asked for medical attention from the officers. He was not sure what he was charged with when he was arrested and has an upcoming court appearance on an unknown date. He stated that nothing was recovered from his home when the officers conducted their search.

Attempts to Contact Civilian (encl. 64-71)

On January 4, 2013, the undersigned investigator called § 87(2)(b) and he scheduled an interview for January 17, 2013. On January 14, 2013, § 87(2)(b) called the undersigned investigator to state that he may not appear for his interview on January 17, 2013 because he was attempting to contact his attorney to reschedule. On January 16, 2013, the undersigned investigator called § 87(2)(b) who confirmed that he was to cancel and call back on another

date to reschedule. On February 1, 2013, the undersigned investigator called § 87(2)(b) and left a voicemail message. Between February 21, 2013 and March 1, 2013, the undersigned investigator called § 87(2)(b) twice, but there was no answer and no voicemail engaged. The undersigned investigator mailed him a please call letter on February 1, 2013, and on March 1, 2013.

The undersigned investigator identified § 87(2)(b) as a possible witness as she was the female Lt. Hayward and PO Schumacher were with when the knocked on § 87(2)(b)'s apartment door in order to verify if they knew her. § 87(2)(b)'s address was obtained from her arrest listed in the command log. A search of Lexis Nexis revealed two contact numbers for § 87(2)(b) however, after calling both numbers, the undersigned investigator learned that both numbers were incorrect. The undersigned investigator mailed § 87(2)(b) a please call letter on May 1, 2013 and June 3, 2013.

NYPD Statement(s):

Subject Officer: LT JOSEPH HAYWARD

- *At the time of the incident, Lt. Hayward was § 87(2)(b) old. He is a white male who stands 5'7" tall and weighs 180 pounds with brown hair and brown eyes.*
- *His assignment was impact lieutenant and he was partnered with PO Schumacher. He worked in uniform in a marked RMP from 7:30pm until 4:15am.*

Memo Book: (encl. 17-18)

Lt. Hayward's memo book entries state that at 2:30am, Lt. Hayward conducted a vertical patrol at § 87(2)(b). At 3:00am, he had an AIDED and an investigation into a criminal trespass. At 4:00am he requested ESU to respond because males refused to open § 87(2)(b) so that EMS could treat an AIDED. At 5:19am, Lt. Hayward had two males under arrest for § 87(2)(a) 160.50, and one female was transported to § 87(2)(b) as an AIDED. At 5:30am, Lt. Hayward was present at the 75th Precinct stationhouse.

CCRB Statement: (encl. 19-21)

On May 1, 2013, Lt. Hayward was interviewed at the CCRB. On August 14, 2012, Lt. Hayward and PO Schumacher conducted a vertical patrol inside of § 87(2)(b). Lt. Hayward explained that during a vertical patrol he checks the building to make sure no one is in the building loitering, doing drugs, or engaging in other illegal activity. He stated that § 87(2)(b) is an FTAP building. Lt. Hayward has a key to the building, which permits him to conduct aforementioned patrols of the building. Lt. Hayward described that there is a front door to the building followed by a vestibule, where there are bells for different apartments, followed by a second door, which permits you into the building. Lt. Hayward and PO Schumacher were in the vestibule area when they observed a female enter the building without using a key and without being "buzzed" in. Lt. Hayward specified that he did not see the female use a key and did not see the female ring any bell, but that he believed there was something "wedged" in the second door holding it open, which permitted the female entry. Lt. Hayward and PO Schumacher were behind the female when they observed this, but they did not stop her at this time because he did not have enough reasonable suspicion to stop her.

Lt. Hayward and PO Schumacher encountered this female a second time, about 5 to 10 minutes later, on the fourth floor of the building. During this time Lt. Hayward's suspicion that she may have been criminally trespassing was raised given the fact that it was 3:00am, the female was walking back and forth on the § 87(2)(b) floor without trying to use a key to get into any

apartment, and did not initially use a key to get into the building. Additionally, Lt. Hayward explained that he has worked in the building for a long time, thus he is familiar with the people who reside in the building and he stated that he had never seen the female in the building prior to this date. Upon approach, Lt. Hayward inquired what she was doing at the location and the female stated that she was visiting someone in apartment § 87(2)(b) which Lt. Hayward knows to be a location for the sale of narcotics. Lt. Hayward asked the female if she would mind knocking on the door to confirm that she knew the tenants of apartment § 87(2)(b). The female knocked on the apartment door and Lt. Hayward also knocked on the door stating that it was the police. During this time Lt. Hayward heard two male voices, identified as § 87(2)(b) and § 87(2)(b) inside of the apartment. The male voices stated, “Get the police the fuck out of here. We are not opening the door. What the fuck are you doing with the police here” Following this, Lt. Hayward heard a female voice, identified as § 87(2)(b) in the background coming from inside of the apartment stating that she believed she was having a heart attack and requested for someone to call an ambulance.

When Lt. Hayward heard § 87(2)(b) he went over the radio and called for an ambulance to the location. Lt. Hayward simultaneously began banging on the door multiple times telling the tenants to open the door because he wanted to make sure that § 87(2)(b) was ok. The males continued stating, “We’re not opening the door. Get the fuck out of here.” During this time, a separate call came over the radio as a “rescue job” from inside of apartment § 87(2)(b). Lt. Hayward specified that this meant that someone had called 911 from inside of the apartment requesting an ambulance to the location. Lt. Hayward then call ESU to respond to the location. At some point EMS responded as well as ESU. Lt. Hayward did not recall how long it took for EMS or ESU to respond nor did he recall who responded to the location first. When ESU responded, Lt. Hayward was informed that they had also received the call as a “rescue job.”

Lt. Hayward did not know the identities of the ESU officers. Lt. Hayward informed the ESU officers that there was a female inside who stated she was having a heart attack and that there were males inside who were refusing to open the door. Lt. Hayward made no mention on his own accord about hearing any firearms being loaded or chambered inside of the location. When asked if he heard a shotgun being loaded at any time during this incident, Lt. Hayward stated he thought he heard someone from inside the apartment load a shotgun. He specified that he was not sure if it was him or PO Schumacher who heard the sound, but then stated that he believed it was PO Schumacher who heard this. Lt. Hayward did not recall at what point in time this was overheard, but stated that it was prior to ESU’s arrival at the location. Lt. Hayward stated that he has not had any formal training with shotguns, but that he has shot a shotgun in the past and was familiar with the sound of a shotgun being loaded. Lt. Hayward added that PO Schumacher has previous military experience and may have had some type of training. Lt. Hayward stated that when ESU arrived on the scene he informed them of what was heard with regard to the shotgun and as a result, ESU then had to call for a “back-up” truck to respond so that they could take the door.

When the second ESU truck arrived, they were able to get the door open. Lt. Hayward stated that ESU used a tool to open the door forcefully. When the door was opened by ESU, Lt. Hayward was standing off to the side. Lt. Hayward did not immediately enter the location. He stated that ESU entered, secured the location, and handcuffed the individuals inside of the location. Lt. Hayward and the EMS employees entered the apartment about five minutes after the ESU officers broke open the door. Lt. Hayward checked the damage to the apartment door and then only walked into the first room past the apartment entrance. Lt. Hayward observed § 87(2)(b) and § 87(2)(b) handcuffed sitting on a couch and then directed unknown officers to walk them out to the RMP. Lt. Hayward did not go any further into the apartment. He did not partake or witness the handcuffing of either male. Lt. Hayward did not see any force being used against the males and was not aware of any force used to apprehend them. He also observed § 87(2)(b)

§ 87(2)(b) sitting in an EMS chair with an oxygen tank who was subsequently taken to § 87(2)(b) by EMS. He did not see any officer use force against § 87(2)(b) and was not aware of any force being used against her. Lt. Hayward denied asking about any guns or drugs at the location and he did not do a search of the location. There were no guns removed from the location and there were no guns in plainview. The female who was originally encountered in the building by Lt. Hayward and PO Schumacher was placed under arrest for § 87(2)(b). When asked how long it took to get into the location, Lt. Hayward reflected over his memo book stating that he first encountered the female in the hallway at 3:00am and that he did not have the males under arrest until approximately 5:00am, thus two hours may have elapsed.

Witness Officer: PO WILLIAM SCHUMACHER

Complaint Report and Arrest Report: (encl. 22-27)

According to § 87(2)(b)s and § 87(2)(b)s arrest report narratives, they refused to open the apartment door for officers and EMS, preventing them from rendering aid to a cardiac

victim. § 87(2)(a) 160.50

Memo Book: (encl. 28-29)

At 2:30am, he conducted a vertical at § 87(2)(b). At 3:00am, one female was stopped for criminal trespass on the § 87(2)(b) floor and an investigation was conducted. There was a pick-up of a cardiac victim inside of apartment § 87(2)(b). Two perpetrators inside refused to let officers and EMS inside to treat the victim. At 4:00am, ESU requested to gain entry to treat AIDED. At 5:19am, there were three under in regards to this job. One female for § 87(2)(a) 160.50, § 87(2)(b) residents of apartment § 87(2)(b) stated “I don’t know that bitch.” § 87(2)(a) 160.50. At 5:30am he was at the stationhouse with the prisoners.

CCRB Statement: (encl. 30-32)

On March 15, 2013, PO Schumacher was interviewed at the CCRB. On August 14th, 2012, at approximately 2:30am, PO Schumacher and Lt. Hayward conducted a vertical inside of § 87(2)(b) which is an FTAP location. They came across a female, identified by PO Schumacher as § 87(2)(b) who was attempting to gain entry into the building. § 87(2)(b) was in the vestibule area ringing different bells trying to get into the location. PO Schumacher was not sure if anyone ever rang the bell to let her into the building. They approached § 87(2)(b) and asked her who she was there to visit and she replied that she was there to visit a friend. They asked her if she resided in the location and she stated that she did not. They then went with § 87(2)(b) to the apartment that she stated her friend resided in, which was apartment § 87(2)(b) in order to verify that she was in fact visiting and not trespassing. While en route to go to apartment § 87(2)(b), § 87(2)(b) took off running in the stairwell. They pursued her and grabbed her to stop her from fleeing. They then walked with § 87(2)(b) to apartment § 87(2)(b) and knocked on the door. PO Schumacher did not recall where he or Lt. Hayward were standing when they knocked on the door. He did not recall if he knocked on the door or if Lt. Hayward knocked on the door. PO Schumacher did not recall seeing a camera above the apartment door. He denied that any cameras were ever covered and denied that he or Lt. Hayward put tape or any other object on the peephole of anyone’s apartment door.

According to PO Schumacher, someone came to the door (but did not open the door) and was not very cooperative stating, “fuck you,” and “fuck this,” but he did not recall the details of the conversation surrounding these statements. He stated that this was a male voice who first spoke through the door. PO Schumacher told the individual who responded to the door that he was conducting an investigation and just wanted to verify that the residents of apartment § 87(2)(b) knew § 87(2)(b). A female voice then began speaking from inside of the apartment, who PO Schumacher later came to know that the female voice was that of § 87(2)(b). § 87(2)(b) asked why they were knocking on her apartment door and when the officers were responding to her, she stated “I’m having a heart attack, I’m having a heart attack.” PO Schumacher asked if she wanted an ambulance to which she stated that she did. They then called an ambulance. § 87(2)(b) also called for her own ambulance and two ambulance’s later arrived on the scene. No one ever denied that they needed medical attention and § 87(2)(b) never rescinded her statement about having a heart attack. PO Schumacher knew that she called her own ambulance because he heard the call come over the radio.

About 20 minutes elapsed from the time they heard § 87(2)(b) state that she was having a heart attack and the officers continued to knock on the door. However, two males who were inside of the apartment, later identified as § 87(2)(b) and § 87(2)(b) did not open the

door to allow EMS to render aid to § 87(2)(b) PO Schumacher was speaking to the males through the door telling them to open the door because at this point they needed to help their mother. One of the males responded that his mother was fine and that the officers did not need to come in. This back and forth lasted approximately two hours until they were able to gain entry. ESU was requested to the scene because EMS, PO Schumacher, and Lt. Hayward were unable to gain entry. Once ESU arrived, they used their tools and broke down the door. PO Schumacher did not know the identity of the ESU officers that arrived. ESU entered the apartment and apprehended § 87(2)(b) and § 87(2)(b). He did not observe them being handcuffed and was not aware of any physical force used to restrain or apprehend them. Neither of the males complained of any injuries. § 87(2)(b) was taken out of the location by EMS by the time PO Schumacher entered. He did not see who took § 87(2)(b) out of the apartment. PO Schumacher entered the apartment approximately 10 minutes after ESU entered.

PO Schumacher did not recall anything he did when he entered the location. He did not recall any details aside stating that he remembered that § 87(2)(b) and § 87(2)(b) were on the couch in handcuffs and he removed them from the location. He did not recall if any officers were interacting with § 87(2)(b) of § 87(2)(b). He did not recall if he or any officers ever had any conversation about guns or drugs inside of the location. When asked to describe the layout of the apartment, he stated that there was a kitchen in front of him when he entered and a living room to the right, but he did not recall anything else about the layout. He stated that he only entered into the living room where the two males were. He denied that he searched any areas of the apartment and stated that he did not remember if he went into any other rooms. He did not recall seeing any officers enter any other rooms in the apartment and stated that he may have been in the location for ten minutes, but he was not sure. Before walking out with § 87(2)(b) and § 87(2)(b) PO Schumacher was trying to figure out how to secure the apartment door because it was damaged and would not close. When § 87(2)(b) and § 87(2)(b) were being taken out of the location, PO Schumacher asked them if they knew § 87(2)(b) to which they responded, "I don't know that bitch" and § 87(2)(b) was then arrested for § 87(2)(b). PO Schumacher stated that he only walked one of the males out to the RMP, but did not recall which one. He did not recall if he searched the male who had a gravity knife and did not know who conducted the search. PO Schumacher stated that he was never in possession of anyone's cell phone and denied that he or any officer stepped on or damaged anyone's cell phone. He did not recall seeing any computer inside of the location and denied that he or any officer searched any computer or took apart the tower of a computer. He did not search anything in the apartment or see officers do so.

Only upon being asked if he heard a shotgun being chambered did PO Schumacher acknowledge this. He could not remember any details about this and stated, "this sounds familiar, but off of the top of my head I really can't remember." He stated that he remembered having a dialogue about it, but not specifically hearing the sound. PO Schumacher stated that he believed he told ESU that he heard a shotgun being chambered. He told ESU this detail when they arrived on the scene, but did not recall who he specifically made the statement to or what he specifically stated. He was unable to describe what he heard that lead him to believe there was a shotgun being chambered nor did he remember at what point in time he heard this. He stated that he was not aware of any firearm being recovered from the location or if one had ever been looked for.

PO Schumacher was not aware of any investigation for apartment § 87(2)(b) or its occupants and was not aware if any of the residents of apartment § 87(2)(b) were "wanted" individuals linked to criminal activity. PO Schumacher stated that apartment § 87(2)(b) was a known location for drug sales, but he learned this after the incident. PO Schumacher had never been to apartment § 87(2)(b) prior to this incident and has never interacted with any resident of apartment § 87(2)(b) prior to this incident. PO Schumacher did not recall if other officers, aside from ESU, responded to the location. He stated

that another resident came into the hallway while they were knocking on the door trying to obtain entry. This individual was a female. While he did not recall the individuals name, he recalled that the individual was a relative of the residents in apartment § 87(2)(b). He did not recall any further details.

Witness Officer: PO JOSE ALVAREZ

- *At the time of the incident, PO Alvarez was § 87(2)(b) old. He is a Hispanic male who stands 5'11" tall and weighs 198 pounds. He has dark brown hair and brown eyes.*
- *On the date of the incident, PO Alvarez was in uniform in a marked RMP. He was working with PO William McKiver from 7:05am until 3:40pm.*

Memo Book: (encl. 33-34)

PO Alvarez's memo book states that at on August 14, 2012, his assignment was to secure the door at § 87(2)(b) (apt. number was not specified). At 8:00am he was present at § 87(2)(b). At 9:30am, his post was changed to sectors E and F in RMP number 4824. His partner was noted as PO McKiver.

CCRB Statement: (encl. 35-36)

On June 18, 2013, PO Alvarez was interviewed at the CCRB. On August 14, 2012, PO Alvarez worked from 7:05am until 3:40pm. From 8:00am until 9:30am his assignment was to secure the door of apartment § 87(2)(b) located at § 87(2)(b) with PO McKiver. Upon arrival at the location, PO Alvarez and PO McKiver may have relieved someone from securing the door, but he was not sure if he did and did not recall the identity of who the officers may have been. He recalled that the damage to the door consisted of the "lock being pushed in" which did not permit it to lock; however, the door was still on its hinges. From outside the apartment, PO Alvarez was able to see into the apartment because the door was open. When asked what he saw he replied "furniture" and believed he was able to see into the living room. He did not see any damage to any property inside of the location. At 9:30am, he and PO McKiver's assignment was changed to patrol sectors E and F in an RMP, thus they left the location. PO Alvarez was not present for the entry into § 87(2)(b). He stated that he was given the assignment at the stationhouse and upon arrival he guarded the door by standing outside of it making sure no one entered the premises. He explained that he was given the assignment to secure the door because it was "broken for whatever reason." He was not aware of what took place leading to the door being broken and was not present for it. PO Alvarez and PO McKiver remained at the location until the door was fixed so it could properly close after which he and PO McKiver's post was changed.

PO Alvarez never spoke to any of the officers who were involved in the entry into the location. He and PO McKiver never entered the location. While posted outside of the location several individuals arrived trying to get into the apartment to get property. PO Alvarez stated that he verified if the person resided at the location and he then permitted them to get whatever property they needed to remove, but the person could not remain in the location. PO Alvarez stated that it was possible that an older black female attempted to get in and stated that he believed he may have called a supervisor to obtain permission to permit someone into the location, but he was not sure. PO Alvarez was shown the ESU report, but this did not refresh his memory about any additional details.

Witness Officer: SGT ROBERT PATELLI

- *At the time of the incident, Sgt. Patelli was § 87(2)(b) old. He is a white male who stands 5'10" tall and weighs 205 pounds with salt and pepper (white) hair and brown eyes.*

- *On the date of the incident, Sgt. Patelli was assigned to ESU truck 7 and was in uniform. He worked with Det. Schahz and his tour was 11:18pm on August 13, 2012 until 8:02am on August 14, 2012.*

Memo Book: (encl. 37-39)

Sgt. Patelli's memo book entries state that at 3:25am, he was requested by the 75 Precinct to respond to a barricaded perp job at § 87(2)(b). At 5:00am, there were two individuals in custody and one individual was transported to § 87(2)(b).

CCRB Statement: (encl. 40-42)

On June 18, 2013, Sgt. Patelli was interviewed at the CCRB. When the investigator asked Sgt. Patelli if he had an independent recollection, he stated that nothing about this incident stood out in his mind. The investigator presented Sgt. Patelli with the arrest photographs of § 87(2)(b) and § 87(2)(b) however, this did not refresh his memory of the incident and he did not recognize them. Sgt. Patelli was also shown a copy of the ESU report, which listed him as the supervisor on the scene, after which he stated that the report did refresh his memory "a little bit."

Sgt. Patelli stated that he and his team responded to a radio call regarding a "barricaded perp job" from the 75th Precinct. Upon arrival he was informed by the lieutenant on the scene, who he identified as Lt. Hayward as listed on the ESU report, that the officers that were present were doing a Clean Halls check in the building. Sgt. Patelli was informed that there had been numerous shootings in the building and that the officers, who he did not recall, chased a male who ran into the apartment in question. He was also informed that when the officers on scene knocked on the door, they learned that there was a woman inside of the apartment who was experiencing chest pains and that they thought they heard a "shot gun being racked" in the apartment. He did not obtain any additional information regarding what occurred prior to his arrival. Sgt. Patelli and his team got into their tactical gear, knocked on the apartment door, and engaged in conversation through the door, with the individuals who were inside of the apartment. After negotiating with the individuals who were inside of the apartment to open the door, they complied.

He did not know who exactly was responding through the door. He did not recall the specific conversation with the persons through the door aside from saying they wanted to render help to the female experiencing chest pains inside of the apartment. Once the occupants of the apartment opened the door, Sgt. Patelli and officers from his team entered the location and placed two individuals, identified as § 87(2)(b) and § 87(2)(b) under arrest and the female, identified as § 87(2)(b) was sent to § 87(2)(b) because she was having chest pains. They did not conduct a search of the location, did not damage any property, were not in possession of any cell phones, and did not use force to apprehend anyone. He did not recall what specific part of the apartment anyone entered. He did not specifically place the two males under arrest and did not recall which officers did so. He did not see any officers use force against anyone in the apartment. He did not recall any conversation about any narcotics or weapons inside of the location. Once the males were apprehended and the female was being treated by EMS, who arrived at an unknown time during the incident, Sgt. Patelli and his team left and officers from the 75th Precinct were in charge.

Sgt. Patelli stated that all of the officers listed on the tactical plan were present. He did not recall if an ambulance was on the scene when he arrived or while he was on the scene. When asked if another ESU team/truck responded, Sgt. Patelli was not sure. Based on the information received via the radio call and information when he arrived on the scene, he was to enter the apartment because of several circumstances such as the possibility of the persons inside racking a

shotgun, a person being barricaded inside, and the possible need for medical attention to the female experiencing medical attention. Sgt. Patelli stated that a female experiencing chest pains inside and needed medical attention is an emergency to enter the location; however, with the added information that officers heard a shotgun being “racked” inside of the apartment, they wanted to tread lightly and try to speak with the persons through the door to gain compliance. Sgt. Patelli explained that he would rather negotiate than forcefully enter the location. Sgt. Patelli did not recall any female being present outside of the apartment door and did not recall any neighbors who came into the hallway.

Medical Records

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b). She was treated for hypertension and anxiety § 87(2)(b). On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) for body aches and muscle strain. He was given 60 mg of Toradol for pain and released the same day.

NYPD Document(s)

NYPD SPRINT (encl. 44-45)

The NYPD SPRINT states that there was a job regarding an ambulance needed at § 87(2)(b) and that there was an individual with chest pains inside of apartment § 87(2)(b). According to the SPRINT, ESU was called to the scene at 3:22am and arrived 4:20am. ESU was called for at 3:20am and arrived on the scene at 3:27am. At 4:45am the SPRINT indicated that the AIDED refused to open the door and that the AIDED stated she was having a heart attack. At 5:03am two individuals were in custody and one AIDED was transported to § 87(2)(b).

ESU Report (encl. 46-51)

ESU report number T01953 identified Lt. Hayward, of the 75th Precinct as the reporting officer. ESU Crew 7 received the call at 3:25am and completed the incident at 5:00am. The following narrative was included in the report, “Crew requested by the 75th Precinct, Lt. Hayward, with regards to a possible AIDED down. While crew was gathering further information from Lt. Hayward, crew was advised that the 75th Precinct units were investigating possible guns inside of the location and that an elderly AIDED female stated she was having chest pains. The male occupants of the location refused to open the door for the precinct units to check on the AIDED. The precinct units heard what sounded like a shotgun being chambered/ Crew used hand tools, battery tools, and entry tools to gain control of the door and engaged the occupants of the apartment in conversation and they refused to open the door. The crew continued to engage conversation with the occupants who agreed to open the door, but stated that the door was jammed. The crew advised the occupants to come out of the apartment one at a time once the crew opened the door. The crew opened the door and the occupants fled into the rear of the apartment. The two males refused to be handcuffed and were taken into custody by the crew and were taken into custody by the crew. One female black was removed by EMS to § 87(2)(b) with chest pains, two male black were taken into custody, and two children were secured.”

ESU report number T03525 stated that at 8:16am PO Alvarez, of the 75th Precinct, reported to § 87(2)(b) with regard to a lock-out. The narrative states as follows: “Crew requested to location to secure premises. Crew did attempt to fix the lock on the apartment door.”

Sgt. Patelli was listed as the supervisor in charge.

Voucher number § 87(2)(b) was prepared by PO William Schumacher for a gray gravity knife.

According to the command log, § 87(2)(b)s and § 87(2)(b)s physical and mental condition were noted as apparently normal.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
 - [REDACTED]

- This is the first CCRB complaint filed by § 87(2)(b) and in which § 87(2)(b) and § 87(2)(b) had been party to.

- Lt. Hayward has been a member of the service for 14 years and has the following substantiated CCRB allegations against him:
 - CCRB case number 201200559 an entry and search allegation was substantiated against Lt. Hayward. The CCRB recommended command discipline and the NYPD did not take any disciplinary action.

Identification of Subject Officer(s)

Lt. Hayward was identified on the complaint report as the supervisor on the scene and PO Hayward also identified him as the supervisor at the location, which Lt. Hayward acknowledged during his CCRB interview. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) alleged that unknown officers kicked § 87(2)(b) and placed their foot on his person holding him down to the ground. However, neither § 87(2)(b) not § 87(2)(b) could identify or describe who these officers were. Lt. Hayward, PO Schumacher stated that they did not enter until after § 87(2)(b) was already apprehended and SSA Patelli did not see this occur and did not know who placed either male in handcuffs. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) alleged that she observed an officer strike § 87(2)(b) with an asp; however, § 87(2)(b) made no such allegation himself. § 87(2)(g)

Allegation A: Abuse of Authority: Lt. Joseph Hayward authorized the entry and search § 87(2)(b) in Brooklyn.

It is undisputed that officers entered § 87(2)(b) and that there was damage to her door as a result. § 87(2)(g)

According to § 87(2)(b) and § 87(2)(b) officers knocked on the door with § 87(2)(b) numerous times asking them to open the door. All statements were consistent in that § 87(2)(b) and § 87(2)(b) refused to open the door. § 87(2)(b) stated that officers were in her apartment and that when she returned from the hospital she observed her apartment in disarray and that the door to her apartment was damaged.

According to Lt. Hayward and PO Schumacher, they suspected § 87(2)(b) of criminal trespass and knocked on apartment § 87(2)(b) to verify that she was visiting the occupants of said apartment. Upon knocking on the door, the occupants refused to open the door after which they heard a female voice, § 87(2)(b) state that she was having a heart attack and wanted an ambulance. Both § 87(2)(b) and § 87(2)(b) denied that § 87(2)(b) made any mention of having a heart attack. Lt. Hayward and PO Schumacher testified that they called for an ambulance and for ESU to respond, which was corroborated by the NYPD SPRINT. According to the ESU report, Lt. Hayward informed the ESU officers that the occupants of apartment § 87(2)(b) were not opening the door so that EMS could render medical aid to § 87(2)(b) who was experiencing “chest pain.” Additionally, the report stated that Lt. Hayward informed ESU that they heard what sounded like a shotgun being chambered, which Lt. Hayward made no mention of during his CCRB statement until the investigator questioned him about the details surrounding the aforementioned. However, Lt. Hayward did not recall much detail about this. According to Sgt. Patelli, based on the information provided by Lt. Hayward, they needed to gain entry into the location in order to provide medical attention to § 87(2)(b). Sgt. Patelli further explained that based on the additional information about the shotgun, he decided to try and engage the occupants in conversation before taking the door.

Sgt. Patelli stated that the occupants eventually agreed to open the door. This is corroborated by the ESU report which states that although the occupants agreed to open the door, the door was “jammed” and ESU had to forcefully open the door. According to Sgt. Patelli, the occupants then fled to the back of the apartment where § 87(2)(b) and § 87(2)(b) were arrested. Sgt. Patelli, PO Schumacher, and Lt. Hayward denied that they or any officer searched the location. They acknowledged that the door was damaged as a result of the entry, which all officers explained they entered in order to provide § 87(2)(b) with medical attention. All statements reflect that the officers were concerned with obtaining medical treatment for § 87(2)(b). Although § 87(2)(b) denied that she was having a heart attack, she did state that she was experiencing chest pains as a result of the ordeal, which she admittedly may have said through the door while the officers were knocking on her door. According to the NYPD SPRINT, an ambulance was called to her home for an individual experiencing chest pains and according to her medical records, she was treated for hypertension and anxiety. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Force: Officers used physical force against § 87(2)(b)

According to § 87(2)(b) when officers entered the location they gave verbal orders to “get on the ground,” but admittedly froze up and did not move or comply with the orders. He alleged that officers then grabbed him threw him to the ground face down and that following this he felt officers kicking him all over his body and felt an officers foot on his back applying pressure to hold him down. However, § 87(2)(b) was unable to articulate how he was specifically thrown to the ground or provide any details about where on his body he was kicked or how many times. Additionally, he was unable to provide physical descriptions of any of these officers because he was face down and the officers he did see were wearing tactical SWAT uniforms, which concealed their faces. Conversely, § 87(2)(b) stated that § 87(2)(b) complied with officers orders and got on the ground voluntarily; however, she did describe that officers kicked him while he lay supine on the ground. § 87(2)(b) was unable to describe these officers also.

According to the NYPD SPRINT and officer testimony, ESU truck 7 responded to the location, who would have been dressed in SWAT uniform. The supervisor of ESU truck 7 was Sgt. Patelli, who denied observing any officers use force against any of the males who were arrested inside of the location, which were § 87(2)(b) and § 87(2)(b). According to § 87(2)(b)'s medical records, he complained of pain to body aches and muscle strain, was prescribed pain killers, and then released the same day. He made no mention in his statement to medical personnel that he was kicked or thrown to the ground, he only stated that he struggled with officers during his arrest.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date